

MOTION INFORMATION STATEMENT

Docket Number(s): 14-4295

Caption [use short title]

Motion for: Withdrawal as counsel

US v. Joseph Jenkins

Set forth below precise, complete statement of relief sought:

Motion to be relieved as counsel as directed

based on irreconcilable differences on legal issues.

Appointment of new counsel.

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MOVING PARTY: Joseph Jenkins

OPPOSING PARTY: United States

☐ Plaintiff

☒ Defendant

☒ Appellant/Petitioner

☐ Appellee/Respondent

MOVING ATTORNEY: Robert A. Culp

OPPOSING ATTORNEY: AUSA Steve Clymer, Esq.

[name of attorney, with firm, address, phone number and e-mail]

Robert A. Culp Attorney at Law

U.S. Attorney's Office, NDNY

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Garrison, NY 10524

Syracuse, NY 13261

845-424-4431 culplaw@optonline.net

315-448-0672

Court-Judge/Agency appealed from: Hon. Glenn T. Suddaby, U.S.D.J.

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1):

☐ Yes

☒ No (explain): Government position not customarily sought on motion to withdraw.

Opposing counsel's position on motion:

☐ Unopposed

☐ Opposed

☒ Don't Know

Does opposing counsel intend to file a response:

☐ Yes

☐ No

☒ Don't Know

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND  
INJUNCTIONS PENDING APPEAL:

Has request for relief been made below?

☐ Yes

☐ No

Has this relief been previously sought in this Court?

☐ Yes

☐ No

Requested return date and explanation of emergency:

Is oral argument on motion requested?

☐ Yes

☒ No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set?

☐ Yes

☒ No If yes, enter date:

Signature of Moving Attorney:

s/Robert A. Culp

Date: March 9, 2015

Service by: ☒ CM/ECF

☒ Other [Attach proof of service]

ORDER

IT IS HEREBY ORDERED THAT the motion is GRANTED DENIED.

FOR THE COURT:

CATHERINE O'HAGAN WOLFE, Clerk of Court

Date: \_\_\_\_\_

By: \_\_\_\_\_

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT  
NO.14-4295

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UNITED STATES OF AMERICA,  
Appellee,

v.

JOSEPH VINCENT JENKINS,  
Defendant-Appellant

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On Appeal From the United States District Court, Northern District of New York  
Hon. Glenn T. Suddaby, United States District Judge

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AFFIRMATION OF ROBERT A. CULP, ESQ.  
IN SUPPORT OF MOTION TO BE RELIEVED AS COUNSEL  
AND FOR APPOINTMENT OF NEW COUNSEL

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ROBERT A. CULP declares under penalty of perjury:

1. I am a member in good standing of the bar of this Court and appointed CJA counsel to defendant-appellant Joseph Jenkins. There is no schedule order in this case yet. I submit this affirmation in support of my motion to be relieved as counsel and for the appointment of new counsel.

2. Mr. Jenkins is appealing a trial conviction and 225-month sentence for one count each of alleged violations of (1) 18 U.S.C. 2252A(a)(1) and 2256(8)(A) for transportation of child pornography and (2) 18 U.S.C. 2252A(a)(5) and 2256(8)(A) for possession of child pornography. Mr. Jenkins was originally charged by Canadian authorities following a search when he sought entry from the United States into Canada in May, 2009. Following a scheduled proceeding in Canada in October, 2010 at which Mr. Jenkins did not appear, he was indicted and

prosecuted in the United States in relation to the same search as had been charged in Canada.

3. On this appeal, Mr. Jenkins has submitted a pro se motion in this Court for an injunction against enforcement of the district court judgment and other relief, including assignment of new counsel. *See* Docket Entry #24, entered February 26, 2015; #25, motion as forwarded to counsel February 27, 2015. As set forth in the motion, Mr. Jenkins has deep concerns in this case about unfairness in the Canadian proceedings, advice by Canadian counsel not to appear at the proceedings in question, improper referral of the case by Canadians to the United States, usurpation of jurisdiction and improper interference into the Canadian case by the United States, and failure of U.S. trial counsel to properly litigate these issues.. *Id.* at pars. 1-8. As set forth in the pro se motion, Mr. Jenkins, is not satisfied with my views on these issues, *id.* at par. 9, and seeks, among other things, appointment of new counsel.

4. This motion is made only after substantial efforts to communicate on the issues in question. After I was appointed counsel, because of Mr. Jenkins' concern about these and other issues, and whether and how I would present them, I undertook a substantial review of the district court record and we corresponded at length about the case. Following the filing of the pro se motion, and pursuant to the undersigned's understanding of the Court's preferences in these situations, Mr. Jenkins and I engaged in further correspondence regarding my continued representation and whether we could reach an understanding. However, this continued dialogue has not resulted in a mutual understanding, and I have been instructed to withdraw in light of my views on the case, both as to substance and procedure. Under these circumstances, I do not believe I can represent Mr. Jenkins according to his wishes, nor does Mr. Jenkins want me to continue. In my judgment further time spent would not serve anyone's interests. I respectfully ask to be relieved as counsel and for the Court to appoint new counsel.

5. In addition to electronic filing and service, I am serving a true copy of this motion, this day, March 9, 2015, by first class mail, postage prepaid, upon:

Mr. Joseph V. Jenkins, BOP #19324-052  
Oneida County Correctional Facility  
6075 Judd Road  
Oriskany, NY 13424

WHEREFORE, your affirrant respectfully requests that appellant Tien's motion be granted in all respects. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: Garrison, New York  
March 9, 2015

s/Robert A. Culp  
ROBERT A. CULP